

## Coast Guard, DHS

## § 158.120

### Subpart D—Criteria for Adequacy of Reception Facilities: Garbage

- 158.400 Purpose.  
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AUTHORITY: 33 U.S.C. 1903(b); 49 CFR 1.46.

### Subpart A—General

SOURCE: CGD 85-010, 52 FR 7761, Mar. 12, 1987, unless otherwise noted.

#### § 158.100 Purpose.

This part establishes the following:

- (a) Criteria for determining the adequacy of reception facilities.
- (b) Procedures for certifying that reception facilities are adequate for receiving—
  - (1) Oily mixtures from oceangoing tankers and any other oceangoing ships of 400 gross tons or more;
  - (2) NLS residue from oceangoing ships; or
  - (3) Garbage from ships.
- (c) Standards for ports and terminals to reduce NLS residue.

[CGD 85-010, 52 FR 7761, Mar. 12, 1987, as amended by CGD 88-002, 54 FR 18407, Apr. 28, 1989; USCG-2000-7641, 66 FR 55573, Nov. 2, 2001]

#### § 158.110 Applicability.

(a) Subparts B, C, and E apply to each port and each terminal located in the United States or subject to the jurisdiction of the United States that is—

(1) Used by oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying oily mixtures, or by oceangoing ships to transfer NLSs, except those ports and terminals that are used only by—

(i) Tank barges that are not configured and are not equipped to ballast or wash cargo tanks while proceeding enroute;

(ii) Ships carrying NLS operating under waivers under 46 CFR 153.491(b); or

(2) A ship repair yard that services oceangoing ships carrying oil or NLS residue.

(b) Subpart D applies to each port and terminal located in the United States or subject to the jurisdiction of the United States.

[CGD 88-002, 54 FR 18407, Apr. 28, 1989, as amended by USCG-2000-7641, 66 FR 55574, Nov. 2, 2001]

#### § 158.115 Penalties for violation.

(a) A person who violates MARPOL 73/78, the Act, or the regulations of this part is liable for a civil penalty not to exceed \$25,000 for each violation, as provided by 33 U.S.C. 1908(b)(1). Each day of a continuing violation constitutes a separate violation.

(b) A person who makes a false, fictitious statement or fraudulent representation in any matter in which a statement or representation is required to be made to the Coast Guard under MARPOL 73/78, the Act, or the regulations of this part, is liable for a civil penalty not to exceed \$5,000 for each statement or representation, as provided by 33 U.S.C. 1908(b)(2).

(c) A person who knowingly violates MARPOL 73/78, the Act, or the regulations of this part is liable for a fine for each violation, of not more than \$50,000 dollars, or imprisonment for not more than 5 years, or both, as provided by 33 U.S.C. 1908(a).

[CGD 88-002, 54 FR 18407, Apr. 28, 1989]

#### § 158.120 Definitions.

As used in this part:

*Bunker oil* means oil loaded into bunker tanks for use as fuel.

*Captain of the Port (COTP)* means the Coast Guard officer commanding a Captain of the Port Zone described in Part 3 of this chapter.

*Certificate of Adequacy* means a document issued by the Coast Guard or other authorized agency that certifies a port or terminal meets the requirements of this part with respect to reception facilities required under the Act and MARPOL 73/78, and has Form A, Form B, or Form C attached.

*Clean ballast* has the same meaning as in § 157.03(e) of this chapter.

*Commandant* means Commandant, U.S. Coast Guard.

*Commercial fishing facility* means docks, piers, processing houses, or other facilities which receive commercial fishery products from ships.

*Daily vessel average* means the total number of oceangoing tankers, or any other oceangoing ships of 400 gross tons or more, carrying residues and mixtures containing oil, serviced over a typical continuous 12 month period, divided by 365.

*Form A* means the application for a reception facility Certificate of Adequacy for oil, Coast Guard form USCG-CG-5401A (9-85).

*Form B* means the application for a reception facility Certificate of Adequacy for NLS, Coast Guard form USCG-CG-5401B(2-87).

*Form C* means the application for a Certificate of Adequacy for a Reception Facility for Garbage, Coast Guard form USCG-CG-5401C. "Garbage" means all kinds of victual, domestic, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other annexes to MARPOL 73/78. "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea, and includes any substance subject to control by MARPOL 73/78.

*High viscosity NLS* includes Category A NLSs having a viscosity of at least 25 mPa.s at 20 °C and of at least 25 mPa.s at the time they are unloaded, high viscosity Category B NLSs, and high viscosity Category C NLSs.

*High viscosity Category B NLS* means any Category B NLS having a viscosity of at least 25 mPa.s at 20 °C and at least 25 mPa.s at the time it is unloaded.

*High viscosity Category C NLS* means any Category C NLS having a viscosity of at least 60 mPa.s at 20 °C and at least 60 mPa.s at the time it is unloaded.

*MARPOL 73/78* means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to

that Convention. A copy of MARPOL 73/78 is available from the International Maritime Organization, 4 Albert Embankment, London, SE1 7SR, England.

*Medical waste* means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes and potentially contaminated laboratory wastes, dialysis wastes, and such additional medical items as prescribed by the Administrator of the EPA by regulation. "Mineral and oil industry shorebase" means a place or onshore structure or facility which is a base of operations for ships serving the mineral and oil industry.

*Noxious liquid substance (NLS)* means—

(1) Each substance listed in § 151.47 or § 151.49 of this chapter;

(2) Each substance having an "A", "B", "C", or "D" beside its name in the column headed "Pollution Category" in Table 1 of 46 CFR Part 153; and

(3) Each substance that is identified as an NLS in a written permission issued under 46 CFR 153.900(d).

*Oceangoing ship* means a ship that—

(1) Is operated under the authority of the United States and engages in international voyages;

(2) Is operated under the authority of the United States and is certificated for ocean service;

(3) Is operated under the authority of the United States and is certificated for coastwise service beyond three miles from land;

(4) Is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States as defined in § 2.22 of this chapter; or

(5) Is operated under the authority of a country other than the United States.

NOTE: A Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting and tributary waters, or exclusively on the internal waters of the United States and Canada, is not an "oceangoing ship."

*Oil* means petroleum whether in solid, semi-solid, emulsified, or liquid form, including but not limited to, crude oil, fuel oil, sludge, oil refuse, oil

residue, and refined products, and, without limiting the generality of the foregoing, includes the substances listed in Appendix I of Annex I of MARPOL 73/78. "Oil" does not include animal and vegetable based oil or noxious liquid substances (NLS) designated under Annex II of MARPOL 73/78.

*Oil cargo residue* means any residue of oil cargo whether in solid, semi-solid, emulsified, or liquid form from cargo tanks and cargo pump room bilges, including but not limited to, drainages, leakages, exhausted oil, muck, clingage, sludge, bottoms, paraffin (wax), and any constituent component of oil. The term "oil cargo residue" is also known as "cargo oil residue."

*Oil residue* means—

- (1) Oil cargo residue; and
- (2) Other residue of oil resulting from drainages, leakages, exhausted oil, and other similar occurrences from machinery spaces.

*Oily mixture* means a mixture, in any form, with any oil content. "Oily mixture" includes, but is not limited to—

- (1) Slops from bilges;
- (2) Slops from oil cargoes (such as cargo tank washings, oily waste, and oily refuse);
- (3) Oil residue; and
- (4) Oily ballast water from cargo or fuel oil tanks.

*Person* has the same meaning as in § 151.05(n) of this chapter.

*Person in charge* means an owner, operator, or a person authorized to act on behalf of a port or terminal.

NOTE: The "person in charge" under this part is not necessarily the same person as the "person in charge" referred to in Parts 151, 154, 155, and 156 of this chapter (as defined in § 154.105 of this chapter.)

*Prewash* means a tank washing operation that meets the procedure in 46 CFR 153.1120.

*Port* means—

- (1) A group of terminals that combines to act as a unit and be considered a port for the purposes of this part;
- (2) A port authority or other organization that chooses to be considered a port for the purposes of this part; or
- (3) A place or facility that has been specifically designated as a port by the COTP.

*Reception facility* means anything capable of receiving shipboard oily mix-

tures or NLS residue, or receiving garbage, including, but not limited to—

- (1) Fixed piping that conveys residues and mixtures from the ship to a storage or treatment system;
- (2) Tank barges, railroad cars, tank trucks, or other mobile facilities;
- (3) Containers or other receptacles that are used as temporary storage for garbage; or
- (4) Any combination of fixed and mobile facilities. "Recreational boating facility" means a facility that is capable of providing wharfage or other services for 10 or more recreational vessels. It includes, but is not limited to, marinas, boatyards, and yacht clubs, but does not include a place or facility containing only an unattended launching ramp.

*Regulated NLS cargo* includes each Category A or high viscosity or solidifying Category B or C NLS cargo listed in Table 1 of 46 CFR Part 153 that contains a reference to § 153.908(a) or § 153.908(b) in the "Special Requirements" column of that table and is unloaded at the port or terminal within a typical continuous 12 month period either before or after application is made for a Certificate of Adequacy.

*Residues and mixtures containing NLSs* (NLS residue) means—

- (1) Any Category A, B, C, or D NLS cargo retained on the ship because it fails to meet consignee specifications;
- (2) Any part of a Category A, B, C or D NLS cargo remaining on the ship after the NLS is discharged to the consignee, including but not limited to puddles on the tank bottom and in sumps, clingage in the tanks, and substance remaining in the pipes; or
- (3) Any material contaminated with Category A, B, C, or D NLS cargo, including but not limited to bilge slops, ballast, hose drip pan contents, and tank wash water.

*Segregated ballast* has the same meaning as contained in § 157.03(r) of this chapter.

*Ship* means a vessel of any type whatsoever, operating in the marine environment. This includes hydrofoils, air cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating drilling rigs or other platforms.

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*Solidifying NLS* means a Category A, B, or C NLS that has a melting point—

(1) Greater than 0 °C but less than 15 °C and a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 5 °C above its melting point at the time it is unloaded; or

(2) 15 °C or greater and has a temperature, measured under the procedure in 46 CFR 153.908(d), that is less than 10 °C above its melting point at the time it is unloaded.

*Tank barge* has the same meaning as contained in 46 CFR 30.10-65.

*Tanker* means a ship constructed or adapted primarily to carry oil in bulk in the cargo spaces.

*Terminal* means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

NOTE: The Coast Guard interprets commercial fishing facilities, recreational boating facilities, and mineral and oil industry shorebases to be terminals for the purposes of Annex V of MARPOL 73/78, since these facilities normally provide wharfage and other services, including garbage handling, for ships. “The Act” means the Act to Prevent Pollution from Ships, as amended, (33 U.S.C. 1901-1911).

*The Act* means the Act to Prevent Pollution from Ships (94 Stat. 2297, 33 U.S.C. 1901 *et seq.*).

[CGD 85-010, 52 FR 7761, Mar. 12, 1987, as amended by CGD 88-002, 54 FR 18407, Apr. 28, 1989; USCG-2000-7641, 66 FR 55574, Nov. 2, 2001; USCG-2008-0179, 73 FR 35015, June 19, 2008]

## § 158.130 Delegations.

Each COTP is delegated the authority to—

(a) Conduct inspections at ports and terminals required to have reception facilities under this part;

(b) Issue Certificates of Adequacy;

(c) Grant waivers under § 158.150;

(d) Designate ports; and

(e) Deny entry of ships to any port or terminal, except when a ship is entering under force majeure, that does not have—

(1) A Certificate of Adequacy if required under § 158.135; or

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(2) Reception facilities for garbage required under Subpart D of this part.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989]

## § 158.133 Which ports and terminals must provide reception facilities?

(a) A port or terminal which receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying oily mixtures, must have a reception facility which meets Subpart B of this part.

(b) A port or terminal which receives oceangoing ships carrying NLSs must have a reception facility which meets Subpart C of this part.

(c) All ports and terminals under the jurisdiction of the United States, including commercial fishing facilities, mineral and oil shorebases, and recreational boating facilities, must have a reception facility which meets Subpart D of this part.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989, as amended by USCG-2000-7641, 66 FR 55574, Nov. 2, 2001]

## § 158.135 Which ports and terminals must have Certificates of Adequacy?

To continue to receive ships, a port or terminal must hold one or more Certificates of Adequacy to show compliance with—

(a) Subpart B of this part if it receives oceangoing tankers, or any other oceangoing ship of 400 gross tons or more, carrying oily mixtures.

(b) Subpart C of this part if it receives oceangoing ships carrying NLSs.

(c) Subpart D of this part if it receives—

(1) The ships under paragraph (a) or (b) of this section; or

(2) Fishing vessels which offload more than 500,000 pounds of commercial fishery products from all ships during a calendar year.

[CGD 88-002, 54 FR 18408, Apr. 28, 1989, as amended by USCG-2000-7641, 66 FR 55574, Nov. 2, 2001]

## § 158.140 Applying for a Certificate of Adequacy.

(a) To continue to receive ships at a port or terminal required by § 158.135 to have a Certificate of Adequacy for its reception facilities, the person in